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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,809	04/17/2004	Armen B. Shanafelt	MSB-7273-D1	2913

7590 07/20/2006
John W. Mahoney
Bayer Pharmaceuticals Corporation
800 Dwight Way
P. O. Box 1986
Berkeley, CA 94701-1986

EXAMINER

MERTZ, PREMA MARIA

ART UNIT	PAPER NUMBER
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1646

DATE MAILED: 07/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Supplemental
Notice of Allowability

Application No.

10/826,809

Examiner

Prema M. Mertz

Applicant(s)

SHANAFELT ET AL.

Art Unit

1646

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to ____.
2. ☒ The allowed claim(s) is/are 34-36, renumbered 1-3, respectively.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: ____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date ____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date ____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 2/15/2005
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date ____.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other ____.

Prema Mertz
PREMA MERTZ
PRIMARY EXAMINER

Art Unit: 1646

1. A preliminary amendment filed on 4/16/2004, canceled claims 1-23, and added new claims 24-33. The Examiner inadvertently did not consider this amendment and sent out a restriction on claims 1-23. In response to the restriction requirement, Applicants elected claims 14-16 on 2/13/2006 and canceled claims 1-13 and 17-23. Since claims 14-16 were canceled in the amendment of 4/16/2004, new claims 34-36 are being entered as corresponding to these canceled claims 14-16.

2. An Examiner's Amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 C.F.R. § 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the Issue Fee.

Authorization for this Examiner's Amendment was given in a telephone interview with John W. Mahoney on 7/13/2006.

3. The application has been amended as follows:

IN THE CLAIMS:

Please cancel claims 24-33 without prejudice.

Please add new claims 34-36.

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34. An isolated polynucleotide comprising a nucleotide sequence encoding a human IL-2 mutein with a substitution at amino acid position 88 relative to wild type IL-2, said wild type IL-2 consisting of the amino acid sequence set forth in SEQ ID NO:1.

35. A prokaryotic host cell transformed with the polynucleotide of claim 34.

36. An isolated vector comprising the polynucleotide of claim 34.

4. The following is an Examiner's Statement of Reasons for Allowance:

None of the prior art of record describe or suggest an isolated polynucleotide comprising a nucleotide sequence encoding a human IL-2 mutein with a substitution at amino acid position 88 relative to wild type IL-2, said wild type IL-2 consisting of the amino acid sequence set forth in SEQ ID NO:1, a prokaryotic host cell transformed with the polynucleotide and an in isolated vector comprising the polynucleotide.

5. Any comments considered necessary by applicant must be submitted no later than the payment of the Issue Fee and, to avoid processing delays, should preferably **accompany** the Issue Fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Advisory Information

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Prema Mertz whose telephone number is (571) 272-0876. The examiner can normally be reached on Monday-Friday from 7:00AM to 3:30PM (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Nickol, can be reached on (571) 272-0835.

Official papers filed by fax should be directed to (571) 273-8300. Faxed draft or informal communications with the examiner should be directed to (571) 273-0876.

Information regarding the status of an application may be obtained from the Patent application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Prema Mertz Ph.D., J.D.

Primary Examiner

Art Unit 1646

July 13, 2006